

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MATILDE GATTONI,

Plaintiff,

- against -

YAHOO! INC.,

Defendant.

Docket No. 1:17-cv-03991

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Matilde Gattoni (“Gattoni” or “Plaintiff”), by and through her undersigned counsel, as and for her Complaint against Defendant Yahoo! Inc. (“Yahoo!” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of six copyrighted photographs of villagers in Fuvemeh, Ghana, owned and registered by Gattoni, a Milan based award-winning photojournalist. Accordingly, Gattoni seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Gattoni is an award winning French and Italian photojournalist. Gattoni's work covers social, environmental and human rights issues all around the world. Gattoni founded the agency Tandem Reportages with the aim to produce independent, in-depth stories on relevant contemporary issues such as mass exploitation of natural resources and the relationship between mankind and the environment. Her work has been exhibited at the European Parliament in Brussels, The Backlight Festival in Tampere, and The Annenberg Space for Photography in Los Angeles. She has won numerous awards including the Black and White Spider Awards, the International Colors Awards, The Pilser Urqeel International Awards and many more. Gattoni has a place of business at Via Botticelli 22 Milan, Italy 20133.

6. Upon information and belief, Yahoo! is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 229 43rd Street, New York, New York 10036. Upon information and belief, Yahoo! is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Yahoo! has owned and operated the websites at the URLs: www.Yahoo.com and www.Sports.Yahoo.com (the "Websites").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

7. Gattoni photographed villagers in Ghana (the "Photographs"). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Gattoni is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with the United States Copyright Office and were given Copyright Registration Number VA 2-022-336.

B. Defendant's Infringing Activities

10. On or about October 21, 2016, Yahoo! ran two articles on the Websites entitled *West Africa Is Being Swallowed by the Sea*. See <https://www.yahoo.com/news/west-africa-being-swallowed-sea-184414151.html> and <https://sports.yahoo.com/news/west-africa-being-swallowed-sea-184414151.html>. The articles prominently featured the Photographs. True and correct copy of the articles and screen shots of the articles with the Photographs are attached hereto in Exhibit B.

11. The Photographs appears on Yahoo!'s servers.

12. Yahoo! did not license the Photographs from Plaintiff for its articles, nor did Yahoo! have Plaintiff's permission or consent to publish the Photographs on its Websites.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST YAHOO!)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Yahoo! infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Websites. Yahoo! is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Yahoo! have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a direct and proximate cause of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Yahoo! be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;

3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
May 25, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
Telephone: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Matilde Gattoni